Supreme Court, U.S.
FILED
JUN 9 1988
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-1582

In the Supreme Court
OF THE
United States

October Term 1987

FRANK BORING FITZGERALD,
Appellant,

V.

STATE OF MONTANA; Department of Family Services, EUGENE HUNTINGTON, Director,
Appellees.

ON APPEAL FROM THE SUPREME COURT
OF THE STATE OF MONTANA

BRIEF OPPOSING MOTION TO DISMISS

FRANK BORING FITZGERALD,
3000 Hallowell Lane
Billings, Mt 59101
406-259-5866
Appellant, Pro Se

TABLE OF CONTENTS

Page

OPINIONS BELOW 1

JURISDICTION 2

STATEMENT OF THE CASE 2

ARGUMENT 10

CONCLUSION 20

TABLE OF AUTHORITIES

CASES

Stanley v. Illinois, 405 US 645 (1972)..15

Green v. Campbell, 35 W.Va. 698,
14 S.E. 212 19

Ex Parte Chin King, 35 F 354 (1892) 19

LOWER COURT CASES

DJ-79-188, In Re MGM 1,6

81-523 Mt.Sup.Ct., In Re MGM, 654 P2 994
(1982) 1,3,6,11,12,13,14

83-120 Mt.Sup.Ct., ex rel Hanser v. 13th
District Court, comes from
In Re MGM, DJ-79-188 1,6,14,15

86-538 Mt.Sup.Ct., In Re MGM, 741 P2 770
(1986) 1,10

US STATUTES

USC TITLE 42-601 ET SEQ. 7

FEDERAL STATUTES VIOLATED 11-12

STATE STATUTES

40-6-107 TO 116, MCA 2

40-6-128, MCA 3,4

40-6-130, MCA 2,3

TITLE 40 2,13,16

TITLE 41 2,13,16

UNIFORM PARENTAGE ACT 2

LAW BOOKS

Hurd, Hab. Corp. 450 19

Bouvier's Law Dict. 1, 1406 (1914) 19

MISC.

FEDERAL QUESTION 6,7,11,15

CONSTITUTIONAL QUESTION...6,12,13,14,15,19

WRIT OF HABEAS CORPUS 17,18,19,20

PARENTAL RIGHT 2,3,4,7,11,14,17

CONSTITUTIONAL RIGHT 3,10,12,13,14,18

FEDERAL RIGHT 14

APPELLANT'S

RIGHT 2,3,4,7,10,13,14,16,17,18

No. 87-1582

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

Frank Boring Fitzgerald, Appellant
v.
State of Montana; Department of Family Services, Eugene Huntington, Director, Appellees

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF MONTANA

BRIEF OPPOSING MOTION TO DISMISS

Pursuant to Rule 16.5, of this Court, Appellant, Frank Boring Fitzgerald, files his Brief Opposing Motion To Dismiss.

OPINIONS BELOW

Vital to this case on Appeal are 3 decisions of the Mt.Sup.Ct., based on 9 years of DJ-79-188: 81-523, App. 78-91; 83-120, App.96-97; and 86-538, App. 1-12. Appellees correctly identified two, 81-523, and 86-538, in Appellees' MOTION TO DISMISS. Failed to mention was Mt.Sup.-Ct.'s decision in Ex. Rel. Harold Hanser v. 13th Judicial Court, et al., 83-120, App. 96-97.

JURISDICTION

Appellees concur with Jurisdiction in Appellant's Jurisdictional Statement.

STATEMENT OF THE CASE

Conspicuously absent are matters of considerable importance to this case left out of Appellees' Statement Of The Case.

For a concise overview of this 9 year case, see App. 139-146. Appellees erred on P2-3 stating 40-6-107 to 116, MCA was the paternity action filed by Guardian:

> "On September 11, 1980, the guardian ad litem for the child filed a petition to determine paternity and to determine whether appellant's parental rights should be terminated under the provisions of the Uniform Parentage Act specifically section 40-6-130, MCA." App. 81. (emp add)

Appellees, P3, left out, "consolidation" of Guardian's Title 40 Parental Rights termination and the State's Title 41 Parental Rights termination petitions were objected to by Appellant:

> "Over objections by appellant, the District Court consolidated the proceedings brought by the guardian and the SRS." App. 81. (emp add)

It needs to be emphasized, those objections Mt.Sup.Ct. 81-523 mentioned were based upon motioned and briefed infringement and violation of Appellant's Constitutional Rights clear back in October 1980 and June 1981.

Appellees erred, P3, in stating reversal was based on...failure to determine whether MGM was abused...before proceeding to the best interest standard.

Vital to this case is the fact the reversal, 81-523, was based upon a number of items and which reversal, of Right, should have accomplished a number of things:

> "The District Court then concluded as a matter of law that it would be in MGM's best interest to place her in the custody of SRS..." App. 84.
>
> "...that appellant's parental rights be terminated." App. 84-85.
>
> "Appellant claims that sections 40-6-128 and 40-6-130, MCA, should not have been applied to him, and that District Court therefore erred..." App. 85.
>
> "Respondents claim that when the mother's rights were terminated, the child became subject to a 'potential adoptive proceeding'". App. 87.

"...section 40-6-128, MCA, did not give the guardian of the child the right to petition for termination of the appellant's parental rights." App. 87.

"...District Court erred by consolidating the guardian's petition with that of SRS." App. 87-88.

"It is well-established that absent findings of abuse or neglect based upon clear and convincing evidence, parental rights may not be terminated...These constitutionally protected parental interests in the child are not weakened by the fact that a child is born out of wedlock..." App. 88. (emp. add.)

"Further, this Court has held that a finding of abuse, neglect, or dependency' is the jurisdictional prerequisite for any court ordered transfer of custody.' Only after a showing of dependency, abuse, or neglect, is the 'best interests of the child' test the appropriate basis for determining custody." (emp. not add.)

"Therefore, the District Court here was obligated to find that the child was a 'youth in need of care' and abused or neglected in order to deprive appellant of custody and terminate his rights..." App. 88-89.

"During appellate argument, the guardian for the child admitted that the District Court had not made any findings that the child was abused or neglected by appellant. The findings only determined the child's best interests. More importantly, these findings do not provide a sufficient basis on which to conclude that the child would be in danger of 'imminent risk of harm'

> if she lived with or visited with appellant." App. 90.
>
> "...nothing in this record suggests that the nurse has had the training, experience, or education to diagnose schizophrenia." App. 91.

Reversal did not accomplish reversal. It caused no difference in the attitude of SRS and company towards returning the child to Appellant who had not abused or neglected her. Thus Appellant was deprived of a reversal in practice. That deprivation is a constitutional issue if ever there were one.

Lack of reversal allowed the State time and opportunity to manufacture historical developments detrimental to the parent-child relationship. (EVIDENCE OF STATE'S ABILITY IN THIS CASE TO MANUFACTURE HISTORICAL DEVELOPMENTS DETRIMENTAL TO THE PARENT-CHILD RELATIONSHIP HAS RECENTLY TURNED UP in the form of Department of Family Services, file on sexual assault upon MGM, App. 196-249., and a letter written by MGM thereafter, App. 250-255.)

The reversal, 81-523, did not order the lower court to hold a new trial nor to grant State's motion for a new trial.

In fact, the opposite became true 4 months later in 83-120. The State, in the person of Yellowstone County Harold Hanser, was denied all he had asked for, in the 83-120 denial. 83-120 directly concerned Appellant, the conduct of DJ-79-188, the State, and trial court as regards a new trial. Facts this Court ought to weigh heavily towards a review; there are significant federal and constitutional questions raised in this appeal.

Missing from Appellees' MOTION TO DISMISS, is the fact, the lower court's conduct, at that moment of 83-120 denial, was determined by both 83-120 and 81-523 decisions. Missing is the fact the State, Guardian, and the court disregarded both. A year-and-a-half later the court granted the year-and-a-half old State's Motion For A New Trial. Questions about those e-

vents, which masked Appellant's Rights, are federal questions: Questions of speedy trial, due process, Parental Rights interference by the State, Child conditioning at the hands of the State detrimental to the parent-child relationship, and others.

As to the so-called "Stipulation", App. 48-55, referred to at P3, signed as an order of the court after the fact, App. 55, it was signed under duress by Appellant; the child would have been returned immediately to foster-care. We would have had no more time with her. Appellant, altho represented by counsel, did not make a fully informed decision. We had no idea MGM was a foster-care abused and neglected child bringing effects of abuse to bear and interact with us. Nor was there ever offered nor put into place a "Service Treatment Plan" to reunite our family, required by USC Title 42-601 et seq., which might have given some credence to

the Stipulation.

Instead, the Stipulation was used as an investigatory tool by the State. Had Appellant known what was going on both on the record and off, he would not have signed:

The judge, in a hearing not told about to Appellant, as much as called Appellant a criminal for wanting to go public with the case (Appellant believing the State's actions against his child amounted to a kind of conspiracy to establish a precedent for the removal forever of children from their real families simply in the best interests of the children; a Nazi-style doctrine);

The media was very anxious to learn more about the case. Appellant had picketed the courthouse earlier drawing attention of TV and the public to a very serious question of morality and law (Appellant handed out "Handbills" describing the illegalities in the case. He also drew

the attention of every member of both state houses and the governor);

In the Stipulation, the 6 weeks Appellees mention, P3, were two 3 week visits (spaced by 2 weeks back to foster-care for more conditioning to reject us as her parents); 6 week physical custody to Appellant was not court ordered until later, therefore they were in fact only visits;

It permitted invasion of our privacy without court order;

It permitted Casey to hire the psychologist on their own terms;

It was a Casey guideline, any impairment at the hands of State and foster-care could not be used in the analysis, except, impairment due to foster-care was to be attributed to us, as it was.

The so-called monitoring, it turned out, was used for invasion of our privacy and to report Nazi-style to the Guardian anything discovered which fit the criteria established by Casey guidelines.

Left out of Appellees' Statement of the Case was judge's demand for a settlement, only after hearing the State's side giving no opportunity for defense. Procedural due process of law was violated at many points up to that moment in time as shown in Appellant's Jurisdictional Statement.

ARGUMENT

Appeal 86-538 was one sided. The trial record, absent a defense, formed the basis of deciding there was clear and convincing evidence. Appellant's Constitutional Right to procedural due process at trial was suppressed yet a detrimental decision was based on a defective record.

This 9 year case must be seen in its entirety so as to see from the beginning, where and why the case went wrongly. Right or wrong, process has been extensive.

Appellant claims proper issue structure and correct procedural due process was lacking at many points and compounded

errors. To see but a few quick glances via State's presentation, does not get at the truth.

This appeal is based upon many federal questions:

For example, federal statutes were violated by the State and courts to arrive at the present situation where the State 'looks good", that is, the State was able to manufacture historical developments all along detrimental to the parent-child relationship thru violative movement and control of the child's religion, name, location distance, and no scheduled visitation all the while the reversal, 81-523, was in place;

No speedy trials;

Failure to put into place in the first place recognized Parental Rights absent State interference;

Requiring praying to the State for visitation, which requirement suppressed Parental Rights absent first a finding of

unfitness, because application for visitation allegedly involved the best interests of the child used as a State excuse in the absence of unfitness of the parent;

Constitutional Rights are reserved in the people until correct due process exercises a State right to modify or suppress those people rights. Great harm was done to the parent-child relationship, absent the necessary finding of parental unfitness which unfitness can only be arrived at via correct procedural due process;

The child, in foster-care for 11 of her 18 years which constitutes cruel and unusual punishment for which the child has committed no crime, is a crimeless victim;

Before reversal 81-523, constitutionality questions were raised by Appellant. Reversal left intact those questions thereafter never acted upon.

Because 81-523 was decided on more than the 3 issues initially raised by Appellant, 81-523 must be looked at beyond the

mere 3 issues alone. For example, Issue 1 was decided on several sub-issues, all of which stressed errors on the part of the State, Guardian, and the court.

It is long been practice, if error suppresses Constitutional Rights of appellants, the errors and the suppression are constitutional questions.

Consolidation of petitions, of Guardian, who had no standing, using Title 40 to terminate, and of the State also seeking termination using Title 41, was error and suppression of Appellant's Constitutional Right to a fair trial, assuming one were jurisdictionally proper in view of misapplication of Title 40 jurisdiction. See Jur.St. P21-22 ftnte 2. Those made it a constitutional question of due process.

Errors and suppressing of Appellant's Constitutional Rights are not mere factual matters and the applicability of state law. To suggest otherwise is color of law. Following 81-523, that is in fact

how the State, the Guardian, and the court treated the case and continued on as if there were no successful appeal.

The reversal did not materialize in a fair trial, if one were legal in view of 83-120, again a constitutional question of due process.

It is argued, Parental Rights terminated without correct due process violates an existing US Constitutional Right to due process. US Constitutional Rights were granted to all and are federal rights. The State recognized Appellant's Parental Rights early on, then terminated them but used incorrect due process in arriving at its decision which was reversed in 81-523.

It was the burden upon the State and court to properly structure issues raised AND PROCEDURES used in lower court. Failing to do so permitted misapplication of law burdening Appellant into the required successful appeal, 81-523.

But after 81-523, the State again

failed, saying in effect, it could not structure the issues raised AND PROCEDURES correctly in lower court, necessitating 83-120. Via 83-120, the State and court should have been able to structure the issues raised AND PROCEDURES correctly, but it did not for a third time, then.

In Stanley v. Illinois 405 US 645 (1972) this Court reached down into the lower court for the federal and constitutional questions, alto criticized by the then minority for doing so, in order to reach a better understanding of the issues raised on certiorari. It was found, the State had not correctly structured their issues raised nor PROCEDURES, so as to assure constitutional process via a required trial of the first instance. Failure was the state law and its loose interpretation. So it is here.

Many other cases decided by this Court over the years have led to the conclusion, it is proper and only necessary to give

adequate examples of failure of the State and courts to correctly follow procedural due process in order to attract the attention of this Court.

This case stands in violation at many points, of the "law of the land" as interpreted by this Court.

Because of errors in properly structuring State's issues AND PROCEDURES, four times now, it should be obvious the State, the Guardian, and the courts have relied upon state statutes which are un-understandable, thereby vague. Why did the Guardian use Title 40 seeking to terminate Appellant's Rights? If not for vagueness of Title 40, MCA? And why did the State declare Appellant's child to be a youth in need of care directing its request for a TIA at no one? If not for vagueness of Title 41, MCA? Who is to right a wrong of vague statutes? The legislature? And in the meantime who is to suffer, as have both Appellant and child?

The fairness doctrine as well as significant consequential failures on the part of the State, the Guardian, and the courts to follow procedural and correct constitutional due process ought to weigh in favor of Appellant for review of his grievances against the State by this Court of those inequities, those injustices, those total grievances unresolvable at any other forum of this land. Think of 9 years of deprivation of one's only child's childhood and 9 years of her deprivation of her natural father's love and protection. Can it be attributed only to failure of mere writings on paper, the statutes? Or, to fallibility of papers, issues, courts, and adversarial procedures?

At Appellees' Argument 3, P5, as to Appellant's Alternative Count Two, the Writ of Habeas Corpus. Appellees state, on P5-6, Appellant does not have standing to apply for the writ.

Because Appellant's Parental Rights are

not terminated, he relies on Constitutional Rights not terminated by correct due process of law. Thus Appellant has "legal custodianship" tho not physical custody.

The State and its foster-care providers have admitted to child abuse and neglect caused by foster-care providers while she was in foster-care. See App. 98-108, the first foster-care provider mother's notarized statement; App. 256-277, the SRS file; App. 278-279, the Galen Stipulation of June 1981; App. 196-249, the DFS file.

That constitutes detention of the child by the State acting in bad faith over the past 9 year period. (Recently, a coverup in bad faith was completed. App. 280-282)

If a State remedy were available to Appellant and thought to be successful, surely it would have long since been used. With 3 attorneys on the case over these 9 years to advise, none wanted to use the Writ of Habeas Corpus because each believed it would not work, rather appeals

on errors and constitutional questions are the mode of the times.

As to application of a Writ of Habeas Corpus:

> "The writ is also employed to recover the custody of a person where the applicant has a legal right thereto: as, the husband for his wife, the parent for his child, the guardian for his ward, and the master for his apprentice; Green v. Campbell, 35 W. Va. 698, 14 S.E. 212...Ex parte Chin King, 35 F 354 (1892)...But in such cases, as the just object of the proceeding is rather to remove illegal restraint than to enforce specifically the claims of private custody...Hurd, Hab. Corp. 450" Quote in Bouvier's Law Dictionary Volume 1, 1406 (1914).

One form of the Writ of Habeas Corpus applicable in this case requiring standing only as a parent is, "You have my child which by Right belongs with me." "Give back to me my child which by Right belongs with me, or charge me with a crime."

(Appellant currently seeks a state Writ of Mandate. A Civil Rights action is planned in federal court against those involved in the coverup of the foster-care provider father's sexual assault and a

complaint will be filed with the US Attorney on violations of federal law.)

CONCLUSION

For the above reasons, Appellant has filed his BRIEF OPPOSING Appellees' MOTION TO DISMISS and prays this Honorable Court grants Appellant's Appeal, or in the Alternative Count One, Petition for a Writ of Certiorari, or, Count Two, Petition for a Writ of Habeas Corpus as presented in Appellant's Jurisdictional Statement modified hereby with new and significant matters herein which are material to this case.

Respectfully submitted,

Dated June 2, 1988 _____

Frank Boring Fitzgerald, Pro Se
3000 Hallowell Lane, Billings, Mt 59101
406-259-5866

(APPENDICES O,P,Q,R,S,T FOLLOW)

AFFIDAVIT

STATE OF MONTANA)

) SS.

County of Yellowstone)

FRANK BORING FITZGERALD, being first duly sworn, hereby deposes and says:

He has personally prepared and read his BRIEF OPPOSING MOTION TO DISMISS, in the Appeal 87-1582.

He certifies, in his judgment matters raised and opposition to MOTION TO DISMISS are well founded,

Frank Boring Fitzgerald

Frank Boring Fitzgerald

SUBSCRIBED AND SWORN TO before me by FRANK BORING FITZGERALD on this 2nd day of June, 1988.

STACEY TROTTER NOTARY PUBLIC STATE OF MONTANA

Stacey Trotter

Notary Public in State of Montana

Residing in Billings, Montana

My Commission Expires 6/30/89

AFFIDAVIT OF SERVICE

STATE OF MONTANA)
) SS.
County of Yellowstone)

FRANK BORING FITZGERALD, being first duly sworn, hereby deposes and says:

He has personally served via prepaid first class mail, his BRIEF OPPOSING MOTION TO DISMISS, in the Appeal 87-1582 on the following persons known to be of interest in this APPEAL.

For Appellees:

HON. MICHAEL T. GREELY, Attorney General

*CLAY R. SMITH, Assistant Attorney General State of Montana, Justice Building, 215 North Sanders, Helena, MT 59620-1401 406-444-2026.

RANDI M. HOOD, Special Assistant Attorney General, State of Montana, 48 North Last Chance Gulch, Helena, Mt 59601 406-444-5900.

Damon L. Gannett, Guardian Ad Litem, 720 North 30th Street, Billings, Mt 59101-0097 406-245-6338.

Ralph L. Herriott, Former Counsel for Appellant, 315 North 24th Street, Billings, Mt 59101. 406-248-7110

* Counsel of Record

Frank Boring Fitzgerald

SUBSCRIBED AND SWORN TO before me by FRANK BORING FITZGERALD on this 2nd day of June, 1988.

Notary Public in State of Montana
Residing in Billings, Montana
My Commission Expires 6/30/89

(APPENDICES O,P,Q,R,S,T FOLLOW)

APPENDICES O, P, Q, R, S, and T

O...DFS FILE.....App. 196-249

P...MGM LETTERS.....App. 250-255

Q...SRS FILE.....App. 256-277

R...GALEN STIP. JUNE 1981.....App. 278-279

S...GOVERNOR'S COVERUP LET....App. 280-281

T...CNTY. ATT. COVERUP LET.....App. 282

APPENDIX O (Typed Copy)

DEPARTMENT OF FAMILY SERVICES
STATE OF MONTANA, TED SCHWINDEN, GOVERNOR
406-444-3865
PO BOX 8005, HELENA, MONTANA 59604

February 25, 1988

Frank B. Fitzgerald
3000 Hallowell Lane
Billings, MT 59101

Dear Mr. Fitzgerald,

Please be advised that I interpreted your letter of January 28 to George Bulatowicz as a request for disclosure of our files on your daughter. I immediately contacted our Missoula office to prepare and copy the file relating to the incident involving Kenneth Curtis. I expect that information will be sent to you very shortly.

You need to know that we will release all information we generated that pertains

specifically to your child. We are not authorized to release any psychological, medical or other reports that are generated by other professionals. If any of those exist, they must be acquired from the professional himself.

I hope handling your letter in this way satisfies your concerns.

Sincerely,

Sig: Randi M. Hood

Legal Counsel

TH3/j

DEPARTMENT OF FAMILY SERVICES
STATE OF MONTANA, TED SCHWINDEN, GOVERNOR
406-444-3865
PO BOX 8005, HELENA, MONTANA 59604

February 29, 1988

Ralph Herriott
Attorney at Law
315 N. 24th
Billings, MT 59101

Dear Mr. Herriott:

Enclosed are copies of all materials produced by Department of Family Services regarding the Curtis/Moore case.

Sincerely,

Sig: Shirley V. Tiernan
Social Worker III

Arlene R. Grossman
Social Worker Supervisor II

SVT:hw
Enc.

CURTIS PROGRESS SUMMARY AND SERVICE PLAN REVIEW Narrative for each Summary and Review Activity and Progress Summary: Recording date_____ Dates, events, persons and resources involved, including problems encountered, and reasons.

12-22-87 Spoke to Arlene Grossman, Intervention Supervisor, regarding this case and how I should proceed. She suggested I speak to Russ Francetich.

Spoke to Russ Francetich at the District Office regarding the case. Russ stated that it would be up to Mimi to decide whether or not the child remained in the home. He will discuss case with Mimi.

Informed John Domitrovich at the District Office of this case.

Annebeth Felsman, S.W. III

12-29-87 Made report to City Police.

AF

12-31-87 Spoke to Mimi Morgan. She stated

that the decision to remove will be ours, not hers. She will provide extensive and intensive visitation to the family along with co-worker, Janet Finley. Mimi will also arrange counseling for Margaret with Joan Hess-Homeier and feels that she has a high level of trust between Margaret and herself. Ken Curtis saw Mike Scolatti on December 23rd, which was his first visit.

Called the City Police to see who is assigned to this case; spoke to Rusty Wickman. This is a county case--said to call Don Morman.

Sent referral to Don Morman, Missoula County Sheriff's Department.

AF

01-04-88 Talked to Russ Francetich. Said he felt the decision to remove would be both Mimi's and mine. I said I like either the father to leave during this evaluation period or Margaret. Russ stated he was concerned because the foster father, Ken, has been grooming Margaret and that

he is high school teacher.

Spoke to Dr. Scolatti regarding Ken Curtis. He felt that Margaret Moore would be safe in the home of Ken Curtis but felt that he should talk with Margaret and see how she feels since Ken still is an offender. He felt that his interview with Ken went well and that he was forthright.

01-06-88 Karen Emerson and I attempted to interview Margaret Moore Curtis at Sentinel but she was uncomfortable and we asked her to come into the office. Karen E. and I interviewed Margaret Moore Curtis at our office. This was taped at the request of Don Morman, Sheriff's Dept.

01-06-88 Margaret said she had an aversion to men and felt uncomfortable with them but didn't explain why. Said that Ken started to hug her only this year and it made her feel uncomfortable.

Said she wasn't especially close to either her mother, Marilyn or father, Ken, and that her mother was a distant person.

Margaret said the Curtis' were her second foster placement and that she had been to counseling before and she really liked Dr. Lear.

Karen Emerson and I attempted to interview Margaret Moore Curtis at Sentinel High School, but she was uncomfortable and we asked her to come into the office.

Karen Emerson and I interviewed Margaret Moore Curtis at our office. This interview was taped at the request of Don Morman of the County Sheriff's Dept.

Don Morman, Sheriff's Office said to tape the interview.

Interview Margaret Moore at our DFS Office, 301 W. Alder with Karen Emerson, S.W. The interview was taped.

Earlier, Karen and I contacted Margaret at Sentinel High School but she did not want to be interviewed there.

Margaret stated that her father, Ken Curtis, reported the sexual assault to Mimi Morgan of Casey Family in December

1987 and said he reported as "fondling". The incident occurred the day after Thanksgiving, which would have been November 27, 1987. Her father, Ken, was to get her up at 10:00 A.M. and she woke up on her own at 10:08 A.M. Her mother, Marilyn, had gone to work and her brother, Chad Curtis, was home on Christmas break from the U. of M. By the time Ken entered her room, Margaret stated that she was sitting up. She stated that she was wearing a pair of sweat pants, socks, tank top and a sweat shirt. Ken sat on her bed and began to talk about how he felt that Margaret was his "real" daughter and that an experience he had had two years ago when Margaret fell asleep on his shoulder confirmed his feelings. Margaret said she was very tired and Ken put his arm around her and pulled her back on the bed with him and then she had her neck on his arm. Ken asked Margaret if he could ask her a personal question. Ken then placed his

hand on her breasts (outside of clothing) and asked to see her breasts. Margaret became upset and told him to get out and he did. Later, when Margaret was putting her contacts on in the bathroom, Ken came to the door and kept apologizing for having asked her that question. Margaret said she was upset and called her friend, Debbie, and told her what happened. She had also wanted to tell her school counselor, Ms. Bilyle, but she was not available. Her friend, Debbie, encouraged her to do something, but nothing ever came of it. A couple of weeks after the incident, Margaret said she wanted to use the telephone and was in the garage. Ken became very upset--said Margaret treated him like a lover and that he didn't want to get into a relationship--sexual--and that's not what he meant. About Dec. 19, Margaret was going to mall with her mother, Marilyn. Margaret told her that Ken sexually abused her. Initially, Marilyn did

not believe her, then did. Marilyn went home and confronted Ken and he admitted. Ken later told Mimi and he said he was sorry and would go see Mike Scolatti.

Before the interview, Margaret was concerned about two things: 1) If her dad had to find out (Frank Fitzgerald), 2) what the police would do, and 3) foster care placement.

Annabeth M. Felsman, S.W. III

TIME LINE

November 24 -- Ken Curtis has corrective nose surgery by Dr. Hickman

November 27 -- Sexual assault occurs.

December 19 -- Margaret Moore discusses sexual assault with Marilyn Curtis, foster mother.

December 21 -- Curtis family discuss sexual assault with Mimi Morgan of Casey Family.

December 23 -- Ken Curtis first appointment with Dr. Mike Scolatti.

December 24, 1987 -- Great Falls with Curtis family.

December 28-Jan. 2, 1988 -- Billings with Frank Fitzgerald.

January 6, 1988 -- Interview of Margaret Moore by Annabeth Felsman and Karen Emerson.

January 7, 1988 -- Tape given to Don Morman, Sheriff's Office.

January 12 -- Spoke to Mrs. Marilyn Curtis regarding options and her discussing these (Margaret placed out of home or Ken leaving) with Ken.

Mrs. Curtis felt that this was not a very big incident and felt that this happened because 1)Ken had had nose surgery on November 24 and the drugs hampered his judgment, and 2) the administrative changes in Casey and there not providing a worker until August 1987.

January 13 -- Call from Mimi Morgan. Said that the Curtis' decided that Ken would move from the family home. Said Margaret

did not want to be contacted at school and what type of visitation would be approved.

AF

01-11-88 Wendell Frogan, Sheriff's Department called to inform me that he has completed his investigation of the Ken Curtis/ Margaret Moore case and it has been sent to the office of Dusty Deschamps. The objective is to keep him in treatment, not to prosecute.

AF

01-11-88 Spoke to Randi Hood, State Attorney for DFS, 444-3865. I informed her that Margaret Moore was in the temporary custody of the state until age 18 years, and wanted to know whether Margaret's natural father, Frank Fitzgerald, had the right to know about the sexual abuse. Randi said yes and that Casey Family had the responsibility to inform Mr. Fitzgerald because they were managing the case.

Annabeth Felsman, S.W. III

01-12-88 Spoke to Damon Gannett, attorney and Guardian ad litem for Margaret Moore 245-6338. He feels that the removal of Margaret Moore from Ken and Marilyn Curtis would be very difficult and his first choice would be to have Ken leave the family home and if this is not possible, then Margaret must leave. Also, he stated that the father, Frank Fitzgerald, has the right to know and someone would need to tell him.

Talked to Jan Watson, Receiving Home, 549-1072, in regard to Margaret. Mimi Morgan did contact her and Jan is willing to take Margaret on a trial basis.

Spoke to Marilyn Curtis. Told her there were two choices: 1)Ken leaves the home, or 2)Margaret leaves. Offhand, Marilyn said she would not allow her husband to leave. Marilyn felt this was a minor incident and due to tow things 1)lack of contact with Casey, and 2)drugs that Ken had taken prior to the incident. Ap

parently, on Tuesday, November 24, 1987, Ken had surgery on his nose and she feels this caused him to lack judgment and he was depressed. Dr. Hickman performed the surgery; Dr. Brinkley was the anesthesiologist. Marilyn stated that Wendell Frogan thought this was important information.

Spoke to Mike Scolatti, 728-4100, in regard to Ken Curtis. Mike has seen him once and felt that his treatment would be shorter than most offenders--between six months and one year because he felt Ken had a handle on the dynamics. Mike said he would not put his neck out for Ken but felt that the two, Ken and Margaret, could reside in the same home as long as Ken was in group and Margaret in therapy. Mike feels though, that if someone had to leave, it should be Ken.

Called Receiving Home. Will remove tomorrow.

AF

01-11-88 Meeting with Pat Cahill, Mimi Morgan, Russ Francetich and I met to discuss Margaret Moore case. After discussion, Mimi felt that the foster mother, Marilyn Curtis did not have a good enough relationship with Margaret to be a foster parent by herself. However, our decision was to remove Margaret for her protection.

Mimi Morgan asked for another meeting with Russ Francetich, Pat Cahill and myself with her supervisor, Pet and co-worker, Janet. Pete felt that Margaret had "rights" and that she should remain in the home with the foster family. Also, if Margaret were to leave the home she would be at "risk" as she would feel that she was responsible for the break-up and that she would never report again and she would close herself off. There was lengthy discussion about intervention difference between a natural family and foster care family and the responsibility of a foster family. Casey Family felt that Margaret

was not attached or trusting but felt secure with the Curtis family and that the Curtis family was uncomfortable with the lack of attachment. Although I did not attend all the meeting, DFS stood by their decision about removing Margaret. Mimi Morgan also asked Pat if she could accompany me to the Curtis home 01-12-88 at 5:00 P.M. to talk with the Curtis family and explain the reasons for DFS decision.

Spoke to Damon Gannett, attorney and Guardian Ad Litem for Margaret Moore. He said that, again, he feels that the best possible solution would be to have Ken Curtis leave the family home, and if this is not possible, then Margaret must leave.

Annabeth Felsman, S.W. III

01-12-88 Talked with Pat Cahill and told her that I do not want to be put in a position of defending myself or position with the Curtis family and Mimi Morgan. Also, that I felt this case needed to move forward and that I wanted to talk directly to

the Curtis family and move on. Pat Cahill called Mimi and informed her that I was going to move forward and speak to the Curtis'.

Met.

AF

01-18-88 Finally was able to speak with social worker, George Bulatowicz, 248-1691, of Yellowstone County, Billings. Mr. Bulatowicz is the case manager of the Margaret Moore case. He has had the case since 1985. Peggy Smith was previous worker.

The case file at Yellowstone consists of (4) large volumes. The case first came to light in April 1979. Margaret Moore was seven (7) years old and termed "emotionally disturbed". Her mother was diagnosed as schizophrenic. She has a master's degree in education and worked as a social worker in New York.

Shortly after April 1979, the state asked that parental rights be terminated.

The named father, Frank Fitzgerald, contested. Apparently, the natural mother and he broke up before the mother knew she was pregnant. Frank took necessary blood tests and it was proven that he was Margaret's father. The courts subsequently terminated natural mother's rights and father, Frank took this to the Supreme Court regarding his termination and the lower court decision was overturned. In 1987, the state was given temporary custody of Margaret until she turns 18 years old. The father is considered as a schizophrenic in remission. He is extremely intelligent and brilliant. Frank is very articulate and has been a better attorney than the attorney(s) representing him. He continues to fight for Margaret.

Records indicate that Margaret may have been sexually molested by her birth mother, although this has never been substantiated.

Yellowstone believes that Margaret has

done well at the Curtis residence and she has been there nearly six years. In fact, Margaret uses the last name Curtis instead of Moore.

I asked for a short history of Margaret and names of previous therapist. Mr. Bulatowicz will try and get this together. He stated that he did know that Margaret had seen a Dr. Agusto in Billings but that there was no diagnosis but the evaluation was intended to monitor visitation of Margaret with her father, Frank, in the summer of 1985.

I talked to Mr. Bulatowicz about the possibility of talking to Frank Fitzgerald about the sexual molestation of Margaret. Mr. Bulatowicz agreed but asked for a letter regarding what happened, dates, etc.

Randi Hood, DFS Attorney (444-3865) called to talk about a conversation she was involved in with the Casey Family attorney regarding whose responsibility it is to inform Frank Fitzgerald. Margaret's

natural father, about the sexual assault incident at the Curtis home. Randi still believes that it is Casey's responsibility since they are the managers of the case. I told Randi it made no difference to me who told as long as it happened soon. I suggested that the Yellowstone County people were willing to have Frank Fitzgerald come into their office to discuss the matter since they knew and have a relationship with him. Randi said she'd get back to me.

Annie Felsman, S.W. III

Mimi Morgan's Notes:

Attachment

Sexual abuse victim

Expectations

Change since Chad left

Decisions Tearfulness

Margaret--Tearfulness

Fear of going crazy

Separation -- earlier

Joan Hess-Homeier--staffed case

01-19-88 Damon Gannett (long time with Margaret) GAL. Dad's rights not terminated because of dad's constant legal involvement. Margaret was moved to dad for 6 weeks one summer -- seen by psych there. She regressed while there, according to psych. Curtis' felt she was not herself for a long time later.

Shirley Tiernan, S.W. III

Mimi Morgan's Notes:

Ken: Anger

Displacement

Assuming victim stance

Marilyn: in the middle. No support outside of Ken, Margaret, MZ. {MZ = State Senator Mazurek, legal counsel to Casey Family Program. F.B.F. May 31, 1988.} How to deal with Ken's anger? Confused at information from DFS. Michael Scolatti-- unable to let Margaret be "child" role reversal again. Helpless.

Margaret: regressing?

blame

how to deal with Ken's anger?

power

suicide risk? helpless out of control trying to please no power Marilyn helpless also

Protection from Frank. Ken not move back in -- court order -- 9-1-1.

01-19-88 Talked to Mike Scolatti. He said he was impressed with Ken Curtis and felt that treatment would be between 6 months to one year because he felt Ken understood the dynamics; however, Mike had seen only once. (Would be participating in group therapy.)

Annabeth Felsman, S.W. III

01-20-88 Overall Impression: From the onset of this case, my supervisor, Pat Cahill, and her supervisor, Russ Francetich, were aware of all information and assisted in the decision-making process. Additionally, Regional Administrator, Warren Wright, was consulted.

As a CPS investigation, the duty of the worker is to protect. Worker took several factors into account as well as advice/input from others. In the end, it was decided that the Curtis family would: 1)Consider Ken's removal from the family home; or 2)Margaret Moore would be removed and placed. Subsequently, the Curtis family took responsibility for Ken's actions and he left the family home.

Although I am skeptical about this arrangement because 1)I do not know how committed the Curtis family is in resolving issues (i.e., minimalization of incident and bond of the Curtis' to Margaret and the strength of Marilyn/Margaret relationship given Ken's removal). Ultimately, Margaret may be removed but I feel the impact would be lessened if she were actively involved and had a relationship with a counselor/therapist.

Also, I feel it necessary that Margaret begin therapy <u>immediately</u>. That Ken con-

tinue to work with Mike Scolatti, Ph.D., and participate in group. And that Margaret/Marilyn have counseling and that at some appropriate time all parties participate in family counseling.

My Concerns Regarding Protection

1) Ken Curtis did not voluntarily tell his wife about the sexual abuse incident of November 27, 1987.

2) There is evidence of "grooming" by Ken Curtis of Margaret Moore during the past year (i.e. inappropriate hugging, etc.)

3) Ken Curtis has disclosed that he continues to have sexual feelings about Margaret.

4) Ken Curtis' previous knowledge that Margaret was/is a troubled child.

5) Ken Curtis, having already sexually assaulted Margaret, tells his wife that Margaret is withdrawing from him because she thinks he is going to sexually abuse her.

6) Curtis' family has essentially been

without a worker until Mimi Morgan was assigned to the case, August 1987.

7) Mrs. Marilyn Curtis minimized the situation (what is expected) by saying this incident would not have happened if Ken would not have had corrective nose surgery and the medication effected his judgment.

8) The belief of both Ken and Marilyn that this incident could be the one to bring the family together.

Plus -- After Ken Curtis was strongly encouraged by his wife to repeat incident to Mimi Morgan, Ken began counseling with Mike Scolatti shortly after.

Factors

1) Margaret Moore has been at Curtis home since 10-17-81 -- six years. Needs therapy as soon as possible and all background info/history and her previous contacts with therapists will need to be provided.

2) Margaret has not been seeing an ongoing therapist for past/present problems.

3) Margaret frightened of natural father,

Frank Fitzgerald, finding out about incident.

4) 01-13-88 Mimi Morgan states that Margaret "hears voices".

5) Margaret Moore previous victim of sexual abuse. (Yellowstone County)

6) Margaret "aversion to men" as she says.

7) Access of Margaret by Ken Curtis (business teacher) -- both at school and at home (mother works).

8) Guardian Ad Litem, Attorney Damon Gannett of Billings, is adamant about either Ken Curtis leaving the home or Margaret being removed.

9) Case worker, George Bulatowicz (Billings), Margaret's case manager, feels that Margaret must leave the home if Ken doesn't.

10) Margaret's fear that she is crazy.

11) Issue that Margaret is not attached or trusting of the Curtis family, but feels secure.

Annabeth M. Felsman, S.W. III

01-21-88 1) Who will do what with family?

2) How was decision made to remove M. or K.?

3)Releases of information -- who?

4) Direction we're going

5) Licensing

Casey will pay for Margaret's and foster mom's (Marilyn) therapy.

Conflicting roles?

Casey continues to provide care, custody, control -- Margaret & W/ K. and M. around Margaret.

Ken -- DFS responsibility to determine his contact with Margaret.

Casey: biological father does not have right to be informed. Order only gives him visitation rights -- arranged by Casey. "Strange order"

April 1979 -- SRS Billings removed; Margaret hadn't known this man as her father.

November 1980 -- his paternity established. Since 1980, he's been seeking

to overturn order.

1985. Margaret six-week evaluation visit to father. DR recommended placement with Curtis.

Mother -- psychotic

Father -- psychotic -- paranoia -- did detective "work" on family. Stayed in car outside house. Father capable of doing anything to harass family. {false entry, F.B.F. May 31, 1988}

M. had visit Christmas. M. has wanted visits -- five days at a time -- winter and summer (Frank and Velma). Brings back possessions of her mother's.

Margaret has positive relationship with her maternal aunt. Paternal grandmother ill now. SRS temporary custody until 18. Agreement -- placement continues with Casey.

Issue: a) Should natural father be informed?

b) Who informs him? DFS

Margaret not anxious for father to

know.

Casey looks at foster parents closer to biological parents -- long term.

Casey wants Margaret to remain in family -- with therapy -- sees possible positive outcome.

Concerns: rules , expectations -- who's involved? Who has control over Margaret?

Scolatti -- six to eight weeks before Ken coming home.

Licensing: Provisional six month Marilyn is licensed. Not Ken -- Margaret has say.

Visitation Can begin now -- no overnights. Not alone together -- Margaret and Ken. Ken spend night -- without Margaret there. Need to be in writing.

Contract -- DFS -- legal; case management. Casey and DFS are together.

1) Contract -- treatment -- service agreement Agencies / foster parents

2) Releases

3) See Curtis family

Update report to court on this case--

check with /Leslie / Randi.

Police Report on Curtis (check) Bob Reid -- Brett Sells (City Police)

Tues. 26th -- 9 MZ's office

Tues. 26th -- S -- see Curtis family

Licensing: Accountability: District Office S/ MZ -- set down rules -- check with Scolatti re: Ken keeping treatment.

Releases: Casey Family Program, Ken, Joan H-H, Scolatti, Damon Gannett Attorney at Law 720 No. 30th St. Billings, MT 59101 406-245-6338, Guardian Ad Litem

Margaret Moore 2:20 P.M.

01-21-88 At CPS Team meeting, Mike Scolatti, Ph.D., disclosed that Ken Curtis began group sessions last night. Also, that he (Ken) felt that he acted out of anger towards Margaret because she was not close to him and that he has been spying/peeking at Margaret for some time.

Worker was concerned more so about the "violent" aspect of this act. Not approached as a "loving seduction" but out

of violence. Rape is not for sexual gratification, but violence.

Annie M. Felsman, S.W. III

01-22-88 PCF George Bulatowicz. re: Annie F. George told Frank Fitzgerald. He said he talked with Leslie.

Smith and Co. -- book

443-4730 Casey Family Program

2:30 P.C. to Casey related information to Pete and MZ. {Pete is Pete Surdock, Jr., Casey state director, MZ is State Senator Mazurek, legal counsel to Casey Family Program. F.B.F. May 31, 1988}

P.C. to George Bulatowicz 248-1691.

Shirley V. Tiernan, S.W. III

01-27-88 Defense mechanism have had chance to rebound. Wife convinced him is minor. 6-8 weeks (Mike) "needs to do penance."

ST

02-05-88 Randi Hood -- DFS Attorney. Received letter from Frank -- asking to look at DFS files.

No professional records (no material

done by anyone else).

Only information relating to child--father has filed new letter to us, Supreme Court.

Address: Frank Fitzgerald
3000 Hallowell Lane
Billings, MT 59101

ST

02-08-88 Margaret displacing her anger at Ken on Frank. Fear feeding her anger--where is the (her) anger at Ken right now. Has Marilyn felt her real anger toward Ken? The ethic doesn't allow anger. Forgiveness happens too soon.

M.C. -- mixed feelings about Ken returning before some of above is resolved.

Marilyn very isolated. May see Joan in therapy. Margaret putting so much anger in statement and at DFS.

Shirley V. Tiernan, S.W. III

02-09-88 P.C. from Joan H.H. Margaret feels bad about Ken being out of the home. Joan wonders if Ken being punished, or if

he's really dangerous to Margaret.

From Margaret's statements, Joan feels that Margaret doesn't consider Ken to be a threat to her. M. feels too much is being made of the incident.

02-18-88 Met with Marilyn Curtis and Mimi Morgan. Discussed Marilyn's feelings and responses regarding her family situation. She is planning to continue with Dr. Joan Hess-Homeier, who is also Margaret's therapist. Marilyn stated that she believes this incident has helped to bring her, Ken and Margaret closer. They are much more able to talk about family problems. Margaret wrote a letter to Frank F., telling him how she feels. Margaret seems to like talking with Dr. Joan H-H.

Shirley V. Tiernan, S.W. III

02-19-88 Received letter from Dr. Michael Scolatti stating that he feels it is safe for Ken Curtis to return to the home.

P.C. to Marilyn Curtis relaying information that Ken can return home. He will

continue working with Scolatti until released by Scolatti. They will also continue to work with Mimi Morgan, Casey.

SVT

02-22-88 P.C. from Ralph Herriott, Frank Fitzgerald's attorney. (406) 248-3138.

P.C. to Leslie Taylor. DFS gives F.F. only DFS product. She suggests we call Casey Family Program to see if they object to giving their dictation.

Re: Supreme Court. F.F. didn't file with Supreme Court for appeal. {false entry. F.B.F. May 31, 1988}

P.C. to Ralph Herriott 315 N. 24th Billings, MT 59101

He asks that DFS send him a copy of the file. He will share with F. Fitzgerald.

P.C. to Casey Program. Requested they allow their recordings to be included in DFS file -- permission was not give.

Shirley V. Tiernan, S.W III

{end of PROGRESS SUMMARY AND SERVICE PLAN REVIEW}

INTAKE REFERRAL

Case Name: Curtis, Ken & Marilyn

Investigation: Sexual Abuse

Case No: 32-36787

Date: 22 Dec 1987

Children: Margaret Moore (foster child)

Birthdate 06/10/72; Age: 15; Sex: F

School: Sentinel - 728-2403

Grade: Soph

Victim: checked

Address: 81 Lacota, Msla, Mt

Phone: Home 251-3326

Adults: Ken Curtis; Age: 41

Employment: Sentinel HS - Business teacher

Relationship: Foster father

Marilyn Curtis

Employment: Dr. Hickman

Relationship: Foster mother

Nature of Referral:

Margaret Moore has lived at the home of Ken & Marilyn Curtis since 10/17/81. The Casey Family is involved in the payment,

support and supervision of the foster home. The state has licensed this home and Margaret is in the custody of DFS til age 18 yrs. This case comes from Yellowstone Co. and the Guardian ad litem is in Billings.

Mimi Morgan of Casey Family made a routine visit to the Curtis family on Dec. 21, 1987. At that time, Ken told her about an incident which occurred Nov. 28, 1987. Said he had gone into Margaret's room to wake her up and fondled her breasts.

Margaret Moore told Mimi that Ken woke her up and he was touching her breasts, She told him to get out and he did.

Ken since has asked Margaret's forgiveness and is will to see someone. Ken is upset as Margaret is not distant from him.

Margaret disclosed to Mimi that she had been warned that Ken would molest her and he did. She is frightened and is

withdrawn.

Ken states and acknowledges that he has sexual feelings about Margaret; Margaret has been a victim before and Ken knew it and Ken did not disclose to his wife- Margaret did on Dec. 19 while driving to the mall. Initially, Marilyn did not believe Margaret, then said she did. Marilyn then confronted Ken.

Mimi believes that Margaret has a high degree of trust in her and Mimi feels that Margaret is a disturbed kid. Margaret is restricted, rigid, and cold. Margaret's natural parents are mentally disturbed.

Although Margaret has been a victim of sexual abuse in the past, she has not seen a counselor. Casey Family was hesitant to bring the subject up since Margaret is fearful of being like her natural parents.

STATE OF MONTANA

Department of Social and Rehabilitation Services Referral for Suspected Sexual

Abuse. Date: 29 Dec. 1987

TO: Missoula County Sheriff's Office

From: Annie Felsman, SW III, Referring CPS Worker, Phone Number 721-9360

Re: VICTIM Margaret Moore

DOB: 6/10/72

Resides with: Ken & Marilyn Curtis

Address: 81 Lacota, Msla, MT

Phone: 251-3326

ALLEGED OFFENDER: Ken Curtis

Relationship to victim: Foster father

Address: 81 Lacota, Msla, MT

Phone 251-3326

DOB: 10/15/46

REFERRANT TO CPS: Mimi Morgan, Social Worker w/ Casey Family Program

Address: 101 E. Broadway

Phone: 543-3632

Date of Referral 12/22/87

Dear Detective,

This case has not been investigated, yet, by our office. See attached memo. Victim, Margaret Moore is at her natural

father's home in Billings until Jan. 3, 1988.

MISSOULA COUNTY OFFICE OF HUMAN SERVICES

301 WEST ALDER, MISSOULA, MONTANA 59802

TO: City Police

SUBJECT: Sexual Abuse Referral

DATE: 12/29/87

MESSAGE

Mimi Morgan, Social Worker for the Casey Family Program informed me that Ken Curtis disclosed to her that he had fondled foster child, Margaret Moore on November 28, 1987.

Margaret Moore stated that Ken had entered her room to wake her up and began touching her breasts. She told Ken to get out and he did.

Other information - Margaret has been a foster child in the Curtis home since 1981; Ken acknowledges sexual feelings for Margaret; Margaret has been a victim of sexual abuse before being placed at the Curtis home; Ken did not tell his wife of this incident - (Dec 19) Margaret did; Ken has asked Margaret's forgiveness and is o-

pened to help.

Signed By Annabeth Felsman, SW III

CSD-110A (Rev. 5/84)

State of Montana

Department of Soc. & Rehab. Services

REPORT ON CHILD PROTECT. SERV. REFERRAL

REFERRAL INFORMATION

1. Family Name: Curtis, Ken & Marilyn

2. K #: 32-36787

3. Street Address: 81 Lacota, Msla 59803

4. Relationship of Referral Source to Client: 12.Human Services

5. Family Phone: 251-3326

6. County #: 4

7. Case Worker #: --

8. Referral Date: 12/22/87

CLIENT INFORMATION

10. SSN: -

11. Last Name: Moore; First Name: Margaret

12. Birth Date: 6/10/72

13. Sex: F

14. Ethnicity Code: 1. Caucasian

15. AKA: -

CASE DETERMINATION

16. Complaint code: ABUSE: SA - Sexual

17. Children Involved: 1

18. Case Determination code: S - Substantiated

19. Perpetrator to Client Relationship Code: A - Parent

20. Investigation Start Date: 1/6/88

21. Investigation Completion Date: 1/6-/88

22. Services Provided: (Circle all that apply)

B. Social Work Counseling

C. Resource Referral

G. Referral - Law Enforcement

I. Referral - County Attorney - Criminal

23. Current Case Status: (Circle one):

A. Case Open

24. Investigating Worker's Signature:

Annabeth M. Felsman

26. Date Submitted: 1/7/88

THIS INFORMATION IS CONFIDENTIAL AND IS USED BY THE COMMUNITY SERVICES DIVISION FOR ADMINISTRATION OF PROGRAM SERVICES AC-

CORDING TO POLICY SECTION CSD 104 OF THE DIVISION'S ADMINISTRATIVE MANUAL.

DEPARTMENT OF FAMILY SERVICES
STATE OF MONTANA, TED SCHWINDEN, GOVERNOR
406-721-9360
301 WEST ALDER MISSOULA, MONTANA 59802

JANUARY 13, 1988

Pat Cahill, S.W.S. II
DFS Office, Missoula County
301 W. Alder
Missoula, MT 59802

Dear Pat,

In regard to the care of minor child, Margaret Moore, a decision has yet to be made regarding the question of who is to inform the natural father, Frank Fitzgerald, of the sexual abuse of Margaret by foster father, Ken Curtis.

I spoke to the Department of Family Services attorney, Randi Hood, on January 11, 1988. It was her opinion that since the state had temporary custody of Margaret until aged 18, that the natural father, Frank Fitzgerald, had a right to know.

Further, Randi felt that it was the responsibility of Casey Family to inform him since they manage this case.

The subject of telling Casey that they will need to discuss this with Mr. Fitzgerald has been skirted by Casey.

I believe, however, that since that decision of this case was the states and that we do have custody, it should be our responsibility

As a practical matter, a telephone call to Mr. Fitzgerald would be inappropriate. I suggest that the Billings' office handle this in their office as both supervisor and caseworker are familiar with this case and with Mr. Fitzgerald.

Please advise.

Sincerely,

Signature: Annabeth M. Felsman,
Social Worker III

Pat Cahill
Social Worker Supervisor II

AMF: hw

DEPARTMENT OF FAMILY SERVICES
STATE OF MONTANA, TED SCHWINDEN, GOVERNOR
406-721-9360
301 WEST ALDER MISSOULA, MONTANA 59802

JANUARY 13, 1988

Mr. Damon Gannett
Attorney At Law
720 No. 30th
Billings, MT 59101-0097

Dear Mr. Gannett:

Please be informed that Mr. Ken Curtis has decided to leave the family home.

Personally and professionally, I feel this is the most appropriate resolution as the Curtis family is taking responsibility and Margaret will be allowed to stay in the family home.

It is the hope of this agency to reunite this family and steps will be taken to monitor and manage the placement to that end.

Sincerely,

Signature: Annabeth M. Felsman,

Social Worker III

Pat Cahill

Social Worker Supervisor II

AMF: hw

DEPARTMENT OF FAMILY SERVICES
STATE OF MONTANA, TED SCHWINDEN, GOVERNOR
406-721-9360
301 WEST ALDER MISSOULA, MONTANA 59802

JANUARY 13, 1988

Mike Scolatti, Ph.D.
2831 Ft. Missoula Rd., Suite 305
Missoula, MT 59801

Dear Mike:

Please be informed that Ken Curtis and his wife, Marilyn, have decided that Ken will leave the family home.

I personally feel that this decision is in the best interest of the minor child, Margaret Moore Curtis. Not only has the family taken responsibility but hopefully, Margaret will not feel the burden that it was her "fault".

Measures will be taken to reunify this family under the same roof.

Sincerely,

Signature: Annabeth M. Felsman,

Social Worker III

Pat Cahill

Social Worker Supervisor II

AMF: hw

SERVICE TREATMENT AGREEMENT

Department of Family Services and the Casey Family Program Agreement

1. The agencies will maintain assessment and treatment of Ken and Marilyn Curtis and Margaret Moore during the time DFS and the Casey Family Program are working cooperatively with the family.

2. The agencies will work together to determine how, when and if the family will be reunified.

3. The agencies will provide counseling and information to family members regarding interagency arrangements, communications and each member's treatment goals.

Family Agreement

1. Ken Curtis will be in therapy with Michael Scolatti, Ph.D. until Dr. Scolatti reports that treatment in his program is no longer necessary.

2. Ken Curtis will only have contact with Margaret Moore supervised by Marilyn Curtis, DFS staff or the Casey Family Pro-

gram staff.

3. Ken Curtis will remain out of the home overnight until recommended by DFS, Dr. Scolatti and Dr. Joan Hess-Homeier. Ken Curtis will be permitted to stay overnight in the home if Margaret Moore is staying elsewhere overnight.

Signature: Shirley V. Tiernan, Representative Department of Family Services

Signature: Mimi Morgan, Representative The Casey Family Program

Date: 1-29-88

Signature: Ken Curtis

Signature: Marilyn Curtis

Signature: Margaret Moore (Curtis)

This agreement will be reviewed no later than February 29, 1988

MICHAEL J. SCOLATTI, Ph.D.
COMMUNITY PHYSICIAN CENTER 2
2831 FORT MISSOULA ROAD, SUITE 305
MISSOULA, MT 59801
Telephone 728-4100, ext. 5445

received FEB 19 1988

February 15, 1988

Shirley Tiernan, SRS
301 West Alder
Missoula, Montana 59802

Dear Ms. Tiernan:

This letter is in regards to Mr. Ken Curtis. As we discussed in our telephone conversation on 02-10-88, I do not feel that Mr. Curtis is a threat to his daughter, nor do I feel that he needs to be segregated from his family any longer.

If you have any additional questions please contact me at your convenience.

Sincerely,

Signature: Michael J. Scolatti, Ph. D.
Licensed Clinical Psychologist

MJS/sm

DEPARTMENT OF FAMILY SERVICES

STATE OF MONTANA, TED SCHWINDEN, GOVERNOR

406-721-9360

301 WEST ALDER MISSOULA, MONTANA 59802

FEBRUARY 19, 1988

Ms. Mimi Morgan

Casey Family Program

101 W. Broadway, Rm 401 Re: Ken & Marilyn

Missoula, MT 59801 Curtis Foster Home

Dear Mimi,

In a letter dated February 15, 1988, Dr. Michael Scolatti states that he does not feel that Mr. Ken Curtis is a threat to his daughter, Margaret Curtis (Moore), and feels that Ken Curtis need not be segregated from his family. Because of this, I recommend that Ken Curtis return to the family home.

I have sent a copy of Dr. Scolatti's letter to Russ Francetich, SWS III. Mr. Francetich informs me that the Curtis license has been changed to a provisional license for Marilyn Curtis, only. This

will be in effect until August 1988, when it will be reviewed by a licensing worker.

The DFS doe request that Ken Curtis continue his participation in Dr. Scolatti's offender group until such time as Dr. Scolatti feels Mr. Curtis is ready to graduate. DFS also recommends that Margaret continue psychotherapy with Dr. Joan Hess-Homeier and that the Casey Family Program worker continue to work closely with this family.

Sincerely,

Signature: Shirley v. Tiernan Social Worker III

Arlene R. Grossman

Social Worker Supervisor II

SVT:hw

cc: Ken and Marilyn Curtis, 81 Lacota, Missoula, MT 59803

Damon Gannett, Attorney at Law

720 No. 30th

Billings, MT 59101

APPENDIX P (Typed Copy)

81 Lacota Drive

Missoula, MT 59803

Feb. 17, 1988

Mr. and Mrs. Frank Boring Fitzgerald

3000 Hallowell Lane

Billings, MT 59101

Dear Honest Frank and Mrs. Velma,

Hi! Before I say anything else, I want you to know that I am not recieving any help in writing this letter. I have not been "brain washed". I need to write this letter for my own sake, to express my feelings. It is about time that I do something about them.

I am doing fine right now. Velma, you said I was missing a GREAT opportunity to practice driving. I am driving now.

I know that you heard about what has happened here. And you do not need to hear about it from me. I wish you would

act like normal people and stop "beating around the bush". An average person would say,"I heard you have had some problems. Would you like to write or call to talk about it?" **Frank**ly, I believe that it was none of your business in the first place.

Just to let your minds at rest, I am seeing a psychologist. Ken (I call him "Dad" because I love him, and he is a father to me.) is getting therapy. Frank, I have a very major "bone to pick with you". First of all **Dad**, is honest. He admitted to what he did, and that it was wrong. He is the one who told Mimi about it. He agreed to go to therapy and is doing everything that he can do to make that wrong a right.

I did not like that little SUBTLE hint you inferred when you signed,"YOUR HONEST DAD, FRANK". If you are so honest, why am I illegitimate? Why did you say "That bitch Marilyn wrote to Jewel." She did not. I am still angry about Velma calling

her a bitch. Marilyn is someone who I love very much and she is my mother. You were insulting me, along with my mom. Velma, I wish you would open your eyes. And I don't mean that sarcastically. Mom has never done anything to you. Neither has Dad. They have done what they were told to. Vince said in the surprise visits you made when I first came, I was not supposed to have seen either of you. You didn't have visiting rights then.

I wish you would be direct in what you say, instead of being phony with me. I am almost 16, and I can see through your games. If you really have something to say, as with my Grandma, say it. If not, then don't say it.

You know I do appreciate the things you have done for me and gifts you've given me, but I really love my family here. I love Dad, Mom, Chad, and Schatzi. I love Missoula, my home and security. I like my friends here. I like my school. I have

adjusted to this life. I don't plan to change it for at least two and a half years.

I can't take the pain of having to leave another family. It is like having all of your loved ones die. Can't you see that I am not just a possession? I'm not a piece of furniture you can fight over. I have feelings and emotions that are impossible to overlook. My personality is formed now. There is no way you could change me to be the person you would want. Can't you understand that I am almost grown-up and I want to stay here?

Please don'[t write books or pamphlets about my life. My life is personal and private to me. So is my mother Jewel's. We don't go around telling everyone all the details of your life or ours. It is embarrassing. Please face reality and respect our private lives as we respect yours. Please try to understand that I am a teenager. I am growing up, and I need

independence and control of my life. Do you understand what I am trying to say? Consider my feelings.

{hand-written ending here} Sincerely,

Margaret

P.S. My name is Margaret Ann Curtis. Please accept it, because it's the name I go by.

{beginning of 3 hand written pages written like a child of 7 using different colored pens}

Dere Velma

See Margaret write. Write. Write. Write. Margaret writes to Velma. Velma is HAPPY! See Velma read. Read. Read. Read. Velma thinks Margaret is 7 years old. Margaret writes as 7 years old. Margaret is smart.Margaret knows her colors. This piece of envelop is hot pink This color is red. There is a difference. can Velma say "Color"? Margaret is doing wonderful good.

Margaret likes her new friend,Joan. Joan is a psychologist. Can Velma say "Psychologist"?

Margaret tells joke. Margaret is funny. (Ha Ha Ha) Here is Margaret's joke:

Knock Knock

Who's there?

Annie.

Annie who:

Annietime now Velma will stop writing to Margaret as if Margaret was 7 years old Margaret doesn't like being 7 years old. Margaret likes being 15 years old.

Margaret says goodbye. Can Velma say goodbye?

{picture of a paw print}

{picture of smiling Mr. Balloon}

See Schatzi's footprint

P.S. Wasn't Margaret's joke Funny?

{picture of Mr. Sunshine}

APPENDIX Q (Typed Copy)

{underlined are filled in places, unless already on the form}

YELLOWSTONE COUNTY WELFARE DEPARTMENT

Date: 4-25-79

To: Fran

From: Peg Smith

Re: Margaret Moore (Birthdate) 6-10-72

Authorization to:

Place a child in foster care (X)

Reason for Placement: Possible sexual abuse

Plan for Child: (Include how long they will be in foster care) Pending determination of safety of home.

Name and Address of Foster Parents: (Include how many other foster children there) Rhoda Phillips - none

Relatives: (Who might be interested in child - have they been contacted, can they help) Relatives - out of state

Custody: Temporary (X)

County of Financial Responsibility: Yel-

lowstone

County of Service: Yellowstone

(PLEASE NOTE) No foster home agreement should be signed for more than 30 days except in special cases.

Sig: Peggy Smith, Social Worker

COUNTY APPLICATION FORM

FOSTER CARE:

ADC Related (X)

CWS (X)

NAME: Margaret Ann Moore

DATE OF BIRTH: 6-10-72

SOCIAL SECURITY NUMBER: 751-30-1362

CUSTODY: Temporary (X)

ELIGIBLE FOR SERVICES ON BASIS OF: Possible sexual abuse

VERIFICATION FOR ELIGIBILITY:

RESIDENCE: Mother - Jewel Moore owns home at 318 Terry - Billings, Mt

DEPRIVATION AND NEED: Child Pro. Serv.

RECOMMENDATION: Pend - following results of investigation Recommend approve FHC-ADC related for Margaret Moore b/d 6-10-72 56-27798, eff 4-10-79 at $125.00/mo

PAYEE: Rhoda Phillips - 12 Riley, Blgs, Mt

BY: Sig: Peggy Smith (Worker)

EFFECTIVE DATE: 4-10-79 (FHC)

BOARD APPROVAL Sig:Duane Christiansen

DATE MAY 8, 1979

COUNTY APPLICATION FORM

FOSTER CARE:

Regular (X)

GR (X)

NAME: Margaret Ann Moore

DATE OF BIRTH: 6-10-72

SOCIAL SECURITY NUMBER: 751-30-1362

ADDRESS:Cline Rd Rt #3 HOUSEHOLD 56-27798

CUSTODY: Permanent (X)

ELIGIBLE FOR SERVICES ON BASIS OF: CWS

VERIFICATION FOR ELIGIBILITY:

RESIDENCE: Child born in Blgs

DEPRIVATION AND NEED: Child Under Custody of SRS

RECOMMENDATION: Recommend approve GR - for Margaret Moore b/d 6-10-72 for tissue typing, etc. Code ADC

PAYEE: Immunological Associates, Box 6351 Denver 80206

BY: Sig: Peggy Smith (Worker)

EFFECTIVE DATE: GR 4-21-80 (X)

DATE JUN 17, 1980

SRS-SS-77 (new 6/79) MONTANA DEPT. OF SOCIAL & REHABILITATION SERVICES Social Services Bureau

REVIEW OF TEMPORARY PLACEMENT

Child's Name: Margaret Moore

Review Date: 11-19-80

I. Is the original reason for placement still valid? What is preventing child from returning home? Court action pending on rts of father - mother's rts terminated

II. What is overall goal now? [X] Adoption

III. How soon can permanency be established for the child? Depends on availability of Court - no date scheduled

IV. Case plan to achieve permanency: Child to remain in foster care (Phillips) who plan on adoption

V. Additional comments: Foster parents may move from county -

Names of Workers involved in case staffing: Gary D. Huffmaster; Vi Hustad

Worker initials P.S. Super initials VH

Next Review Date: 2-81

SRS-SS-77 (new 6/79) MONTANA DEPT. OF SOCIAL & REHABILITATION SERVICES Social Services Bureau

REVIEW OF TEMPORARY PLACEMENT

Child's Name: Margaret Moore

Review Date: 4-22-81

I. Is the original reason for placement still valid? What is preventing child from returning home? Mother's rts terminated - Still in Court process of father's rts.

II. What is overall goal now? [X] Perm. Foster care SRS is requesting permanent custody of Margaret c rts of visitation for the father

III. How soon can permanency be established for the child? Years - if father doesn't obtain custody he will appeal to state and federal.

IV. Case plan to achieve permanency:

1) Court process 2) retain Margaret with Phillips family

V. Additional comments: 1) Foster family has moved to Carbon county; 2) Foster family has alcoholic problems; 3) Joint supervision c Carbon; 4) set meeting c Carbon & Joe

Names of Workers involved in case staffing: Gary D. Huffmaster; Vi Hustad

Worker initials P.S. Super initials VH

Next Review Date: 6-81

SRS-SS-77 (new 6/79) MONTANA DEPT. OF SOCIAL & REHABILITATION SERVICES Social Services Bureau

REVIEW OF TEMPORARY PLACEMENT

Child's Name: Margaret Moore

Review Date: 6-10-81

I. Is the original reason for placement still valid? What is preventing child from returning home? Mothers rts termination - Pending results of father's rts from Court

II. What is overall goal now? [X] Other (explain) outcome of Court hearing

III. How soon can permanency be established for the child? Depends on result of Court hearing - father plans on appeal to Supreme Court

IV. Case plan to achieve permanency: Problems with placement - foster home is unstable due to alcoholism of foster father. Now foster home is single parent. Team approach to resolve placement -

Names of Workers involved in case staff-

ing: Violet Hustad; Gary D. Huffmaster

Worker initials P.S. Super initials VH

Next Review Date: 8-81

SRS-SS-77 (new 6/79) MONTANA DEPT. OF SOCIAL & REHABILITATION SERVICES Social Services Bureau

REVIEW OF TEMPORARY PLACEMENT

Child's Name: Margaret Moore

Review Date: 9-23-81

I. Is the original reason for placement still valid? What is preventing child from returning home? Permanent custody granted

II. What is overall goal now? [X] Perm. Foster Care

III. How soon can permanency be established for the child? Casey program has accepted Margaret Pre-placement visits have started

IV. Case plan to achieve permanency: One month of placement visit - Margaret to live with Curtis family in Missoula

Names of Workers involved in case staffing: Gary D. Huffmaster; Violet Hustad

Worker initials P.S. Super. initials ____

Next Review Date: _____

[X] 13th JUDICIAL DISTRICT REVIEW OF FOSTER CARE

REPORT TO THE REVIEW COMMITTEE

CHILD'S NAME: Margaret Moore

AGE: 10 B/D: 06-10-72

ETHNIC: X CAU

REVIEW DATE: 10/07/82

TYPE OF CUSTODY: X P.C.SW: PeggyO'Leary

1. DATE PLACED: 04/10/79

2. REASON FOR PLACEMENT: Mental illness of mother.

3. TYPE OF PLACEMENT: Is the placement the least restrictive and as close as possible to the parent's home so as to facilitate visitation? Casey Foundation [X] Foster Home

Location: City: Missoula State: Montana

4. VISITATION: None - parental rights terminated Visitation not allowed

5. OVERALL GOAL FOR THE CHILD: [X] Permanent Foster Home Care

By: (Date) Current

6. TREATMENT PLAN: CHILD & PARENTS

If the plan is to return the child home, what efforts must be made by the agency and parents before the child can return home? If the plan is not to return the child home, what are the reasons?

Parental rights terminated. Father is appealing the termination. He plans to take through the state and federal system. Child is in permanent care - good attachment - A student - no noted problems. She will remain in same family if court issue is resolved.

7. SERVICES PROVIDED TO THE CHILD, PARENTS, FOSTER PARENTS DESIGNED TO RETURN THE CHILD HOME OR TO FACILITATE OR MAINTAIN PERMANENCY.

X Counseling and case management services by the C.P.S. worker

X Mental Health Counseling

X Psychological evaluation

X Foster home care

REPORT OF THE FOSTER CARE REVIEW COMMITTEE

CHILD'S NAME: MOORE, MARGARET

1. Is this placement the least restrictive? X YES

2. Is the placement as close as possible to the parent's home? X N/A

3. Has/Did the social worker made/make appropriate arrangements for parent-child visitations? X N/A

4. Can the child return home? X NO

5. Has/Did the social worker identified-/identify the efforts that must be made by the parents and agency before the child can/could return home? X N/A

6. Have/Were reasonable efforts been made by the placing agency to return the child to his or her home? X N/A

7. Has an expectant date for permanency been established? COMMENTS: Depends on appeal

8. Are the child, parents, foster parents receiving appropriate services? X YES

9. Does the child's treatment plan need to

be modified? X NO

Respectfully submitted:

1. Ted Lechner, District Court Services
2. Gary Huffmaster, SRS
3. Carol Gannett, Judicial Appointee
4. Lynn Montague, Judicial Appointee
5. Gary W. Roger, School District #2
6. Gayle Tompkins, Judicial Appointee

[X] 13th JUDICIAL DISTRICT REVIEW OF FOSTER CARE

REPORT TO THE REVIEW COMMITTEE

CHILD'S NAME: Margaret Moore

AGE: 10 B/D: 06-10-72

ETHNIC: X CAU

REVIEW DATE: 4-28-83 NEXT REVIEW 10-83

TYPE OF CUSTODY: X P.C. SW: PeggyO'Leary

1. DATE PLACED: Initial 04/10/79 Current- 10-17-81

2. REASON FOR PLACEMENT: Parental rights terminated due to mental illness of parents.

3. TYPE OF PLACEMENT: Is the placement the least restrictive and as close as possible to the parent's home so as to facilitate visitation? [X] Foster Home - Casey Family Foundation

Location: City: Missoula State: Montana

4. VISITATION: None - parental rights terminated N/A It is being requested through court action

5. OVERALL GOAL FOR THE CHILD: [X] Perma-

nent Foster Home Care By: 10-17-81

6. TREATMENT PLAN: CHILD & PARENTS

If the plan is to return the child home, what efforts must be made by the agency and parents before the child can return home? If the plan is not to return the child home, what are the reasons?

Parental rights terminated. Father is appealing the termination. He plans to take through the state and federal system. Child is in permanent care - good attachment - A student - no noted problems. She will remain in same family if court issue is resolved.

7. SERVICES PROVIDED TO THE CHILD, PARENTS, FOSTER PARENTS DESIGNED TO RETURN THE CHILD HOME OR TO FACILITATE OR MAINTAIN PERMANENCY.

X Counseling and case management services by the C.P.S. worker

X Mental Health Counseling

X Psychological evaluation

X Foster home care

REPORT OF THE FOSTER CARE REVIEW COMMITTEE

CHILD'S NAME:MOORE, MARGARET Date:04/28/83

1. Is this placement the least restrictive? X YES

2. Is the placement as close as possible to the parent's home? X YES

3. Has/Did the social worker made/make appropriate arrangements for parent-child visitations? X YES

4. Can the child return home? X NO

5. Has/Did the social worker identified-/identify the efforts that must be made by the parents and agency before the child can/could return home? X YES

6. Have/Were reasonable efforts been made by the placing agency to return the child to his or her home? X YES

7. Has an expectant date for permanency been established? X YES

8. Are the child, parents, foster parents receiving appropriate services? X YES

9. Does the child's treatment plan need to be modified? X NO

COMMITTEE RECOMMENDATIONS: Recommend that Margaret appear in own behalf - Currently in legal process Supreme Court - placed in Casey Foundation - Committee believes this girl should remain in Casey and never to return to parents.

Respectfully submitted:

1. Ted Lechner, District Court Services
2. Gary Huffmaster, SRS
3. Gayle Tompkins, Judicial Appointee
5. Gary W. Roger, School District #2
6. Lynn Montague, Judicial Appointee
7. Dwight MacKay, Judicial Appointee

[X] 13th JUDICIAL DISTRICT REVIEW OF FOSTER CARE

REPORT TO THE REVIEW COMMITTEE

CHILD'S NAME: Margaret Moore

AGE: 10 B/D: 06-10-72

ETHNIC: X CAU

REVIEW DATE: 11-21-83 NEXT REVIEW 5-84

TYPE OF CUSTODY: X P.C.SW: PeggyO'Leary

1. DATE PLACED: 4-10-79

2. REASON FOR PLACEMENT: Mental illness of mother

3. TYPE OF PLACEMENT: Is the placement the least restrictive and as close as possible to the parent's home so as to facilitate visitation? [X] Foster Home - Casey Foundation

Location: City: Missoula State: Montana

4. VISITATION: None - parental rights terminated - Visitation not allowed

5. OVERALL GOAL FOR THE CHILD: [X] Permanent Foster Home Care By: (date) Current

6. TREATMENT PLAN: CHILD & PARENTS

If the plan is to return the child

home, what efforts must be made by the agency and parents before the child can return home? If the plan is not to return the child home, what are the reasons?

Parental rights terminated. Case is being appealed by father. State supreme court has case. It appears that a new hearing will be ordered. The foster family wishes and Margaret wishes to continue with her family forever.

7. SERVICES PROVIDED TO THE CHILD, PARENTS, FOSTER PARENTS DESIGNED TO RETURN THE CHILD HOME OR TO FACILITATE OR MAINTAIN PERMANENCY.

X Counseling and case management services by the C.P.S. worker

X Mental Health Counseling

X Psychological evaluation

X Foster home care

REPORT OF THE FOSTER CARE REVIEW COMMITTEE

CHILD'S NAME:MARGARET MOORE Date:11-21-83

1. Is this placement the least restrictive? X YES

2. Is the placement as close as possible to the parent's home? X N/A

3. Has/Did the social worker made/make appropriate arrangements for parent-child visitations? X YES

4. Can the child return home? X NO

5. Has/Did the social worker identified-/identify the efforts that must be made by the parents and agency before the child can/could return home? X N/A

6. Have/Were reasonable efforts been made by the placing agency to return the child to his or her home? X N/A

7. Has an expectant date for permanency been established? X NO

8. Are the child, parents, foster parents receiving appropriate services? X YES

9. Does the child's treatment plan need to be modified? X NO

Respectfully submitted:

1. Ted Lechner, District Court Services
2. Gary Huffmaster, SRS
3. Carol Gannett, Judicial Appointee
4. Gayle Tompkins, Judicial Appointee
6. Dwight MacKay, Judicial Appointee
7. Lynn Montague, Judicial Appointee

APPENDIX R (Typed Copy of a best available copy)

IN THE DISTRICT COURT OF THE THIRTEENTH JUDICIAL DISTRICT OF THE STATE OF MONTANA IN AND FOR THE COUNTY OF YELLOWSTONE

IN THE MATTER OF	)	Cause
MARGARET GERALDINE MOORE,	)	No. DJ-79-188
Youth in Need of Care.	)	STIPULATION

Following the conclusion of testimony taken in regard to this matter, evidence was brought to the attention of all parties which should be made a part of the record and by this stipulation it is hereby agreed upon to be and is a part of the record and facts on file herein:

1. That the minor child Margaret Geraldine Moore has been in the temporary custody of foster parents Mr. and Mrs. Phillips and following the termination of

the hearing in this case, Mr. Phillips entered the Galen State Hospital for alcoholic treatment as a result of his alcoholic problem. During the period of time the minor child has been in the foster home, Mr. Phillips has also resided there simultaneously.

DATED this _____ day of June, 1981.

Calvin J. Stacey
{attorney for respondent}

W. Corbin Howard, Deputy County Attorney

Damon L. Gannett
{Guardian Ad Litem}

APPENDIX S (Typed Copy)

STATE OF MONTANA, OFFICE OF THE GOVERNOR

HELENA, MONTANA 59620

406-444-3111

May 23, 1988

Frank Boring Fitzgerald

3000 Hallowell Lane

Billings, MT 59101

Dear Mr. Fitzgerald

I referred your letter of April 13, 1988, to Gene Huntington, Director of the Department of Family Services. After investigating your concerns, Mr. Huntington found that the sexual abuse complaint involving your daughter was handled in accordance with accepted policy and procedures.

Mr. Huntington indicates that initially, while your daughter remained in the foster home, the perpetrator voluntarily removed himself from the home. After

obtaining professional opinions from everyone involved, it was determined that, because of her attachment to the foster parents, maintaining the relationship between your daughter and her foster family was in her best interests. The perpetrator only returned to the home upon the agreement of all professionals involved that his return would not place her at risk. The Department of Family Services' duty was to protect the child and Mr. Huntington indicates that was done.

Any decision to prosecute rests with the local county attorney, to whom I understand you have also written. You should address additional questions or comments to Mr. Huntington.

Sincerely,

Sig: TED SCHWINDEN, Governor

APPENDIX T

OFFICE OF COUNTY ATTORNEY, MISSOULA COUNTY
COURTHOUSE, MISSOULA, MONTANA 59802
406-721-5700 May 27, 1988

Frank B. Fitzgerald
3000 Hallowell Lane
Billings, Montana 59101

Dear Mr. Fitzgerald,

I am in receipt of your materials of May 25, 1988. I reviewed them as well as the investigation files I had initially examined this year.

I am satisfied with my earlier decision not to prosecute since this matter appears to have been adequately resolved without any need for a criminal prosecution.

Sincerely,

Sig: Robert L. Deschamps, III
MISSOULA COUNTY ATTORNEY

RLD/jl